

Calendar No. 892

110TH CONGRESS
2D SESSION

S. 3301

[Report No. 110–428]

Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2009, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2008

Mr. JOHNSON, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

A BILL

Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2009, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for
5 military construction, the Department of Veterans Affairs,

1 and related agencies for the fiscal year ending September
2 30, 2009, and for other purposes, namely:

3 TITLE I

4 DEPARTMENT OF DEFENSE

5 MILITARY CONSTRUCTION, ARMY

6 (INCLUDING RESCISSIONS OF FUNDS)

7 For acquisition, construction, installation, and equip-
8 ment of temporary or permanent public works, military
9 installations, facilities, and real property for the Army as
10 currently authorized by law, including personnel in the
11 Army Corps of Engineers and other personal services nec-
12 essary for the purposes of this appropriation, and for con-
13 struction and operation of facilities in support of the func-
14 tions of the Commander in Chief, \$4,561,561,000, to re-
15 main available until September 30, 2013: *Provided*, That
16 of this amount, not to exceed \$169,898,000 shall be avail-
17 able for study, planning, design, architect and engineer
18 services, and host nation support, as authorized by law,
19 unless the Secretary of Defense determines that additional
20 obligations are necessary for such purposes and notifies
21 the Committees on Appropriations of both Houses of Con-
22 gress of the determination and the reasons therefor: *Pro-*
23 *vided further*, That of the funds appropriated for “Military
24 Construction, Army” under Public Law 110–5,

1 \$48,520,000; and under Public Law 110–161,
2 \$16,600,000 are hereby rescinded.

3 MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

4 For acquisition, construction, installation, and equip-
5 ment of temporary or permanent public works, naval in-
6 stallations, facilities, and real property for the Navy and
7 Marine Corps as currently authorized by law, including
8 personnel in the Naval Facilities Engineering Command
9 and other personal services necessary for the purposes of
10 this appropriation, \$3,159,191,000, to remain available
11 until September 30, 2013: *Provided*, That of this amount,
12 not to exceed \$237,690,000 shall be available for study,
13 planning, design, and architect and engineer services, as
14 authorized by law, unless the Secretary of Defense deter-
15 mines that additional obligations are necessary for such
16 purposes and notifies the Committees on Appropriations
17 of both Houses of Congress of the determination and the
18 reasons therefor.

19 MILITARY CONSTRUCTION, AIR FORCE

20 (INCLUDING RESCISSIONS OF FUNDS)

21 For acquisition, construction, installation, and equip-
22 ment of temporary or permanent public works, military
23 installations, facilities, and real property for the Air Force
24 as currently authorized by law, \$1,058,694,000, to remain
25 available until September 30, 2013: *Provided*, That of this

1 amount, not to exceed \$81,534,000 shall be available for
 2 study, planning, design, and architect and engineer serv-
 3 ices, as authorized by law, unless the Secretary of Defense
 4 determines that additional obligations are necessary for
 5 such purposes and notifies the Committees on Appropria-
 6 tions of both Houses of Congress of the determination and
 7 the reasons therefor: *Provided further*, That of the funds
 8 appropriated for “Military Construction, Air Force” under
 9 Public Law 110–161, \$8,080,000 are hereby rescinded.

10 MILITARY CONSTRUCTION, DEFENSE-WIDE

11 (INCLUDING TRANSFER OF FUNDS)

12 For acquisition, construction, installation, and equip-
 13 ment of temporary or permanent public works, installa-
 14 tions, facilities, and real property for activities and agen-
 15 cies of the Department of Defense (other than the military
 16 departments), as currently authorized by law,
 17 \$1,688,270,000, to remain available until September 30,
 18 2013: *Provided*, That such amounts of this appropriation
 19 as may be determined by the Secretary of Defense may
 20 be transferred to such appropriations of the Department
 21 of Defense available for military construction or family
 22 housing as the Secretary may designate, to be merged with
 23 and to be available for the same purposes, and for the
 24 same time period, as the appropriation or fund to which
 25 transferred: *Provided further*, That of the amount appro-

1 priated, not to exceed \$155,793,000 shall be available for
 2 study, planning, design, and architect and engineer serv-
 3 ices, as authorized by law, unless the Secretary of Defense
 4 determines that additional obligations are necessary for
 5 such purposes and notifies the Committees on Appropria-
 6 tions of both Houses of Congress of the determination and
 7 the reasons therefor: *Provided further*, That none of the
 8 funds appropriated under this heading may be obligated
 9 or expended for site activation or construction of a long-
 10 range missile defense system in a European country until
 11 the government of the country in which such missile de-
 12 fense system (including interceptors and associated ra-
 13 dars) are proposed to be deployed has given final approval
 14 (including parliamentary ratification) to any missile de-
 15 fense agreements negotiated between such government
 16 and the United States Government concerning the pro-
 17 posed deployment of such components in such country.

18 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

19 (INCLUDING RESCISSION OF FUNDS)

20 For construction, acquisition, expansion, rehabilita-
 21 tion, and conversion of facilities for the training and ad-
 22 ministration of the Army National Guard, and contribu-
 23 tions therefor, as authorized by chapter 1803 of title 10,
 24 United States Code, and Military Construction Authoriza-
 25 tion Acts, \$660,669,000, to remain available until Sep-

1 tember 30, 2013: *Provided*, That of the funds appro-
2 priated for “Military Construction, Army National Guard”
3 under Public Law 110–161, \$1,400,000 are hereby re-
4 scinded.

5 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

6 For construction, acquisition, expansion, rehabilita-
7 tion, and conversion of facilities for the training and ad-
8 ministration of the Air National Guard, and contributions
9 therefor, as authorized by chapter 1803 of title 10, United
10 States Code, and Military Construction Authorization
11 Acts, \$180,286,000, to remain available until September
12 30, 2013.

13 MILITARY CONSTRUCTION, ARMY RESERVE

14 For construction, acquisition, expansion, rehabilita-
15 tion, and conversion of facilities for the training and ad-
16 ministration of the Army Reserve as authorized by chapter
17 1803 of title 10, United States Code, and Military Con-
18 struction Authorization Acts, \$357,387,000, to remain
19 available until September 30, 2013.

20 MILITARY CONSTRUCTION, NAVY RESERVE

21 For construction, acquisition, expansion, rehabilita-
22 tion, and conversion of facilities for the training and ad-
23 ministration of the reserve components of the Navy and
24 Marine Corps as authorized by chapter 1803 of title 10,
25 United States Code, and Military Construction Authoriza-

tion Acts, \$61,045,000, to remain available until September 30, 2013.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$29,915,000, to remain available until September 30, 2013.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY

INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, \$240,867,000, to remain available until expended: *Provided*, That of the amount appropriated, not to exceed \$22,000,000 shall be available for the United States share of the planning, design and construction of a new North Atlantic Treaty Organization headquarters.

1 FAMILY HOUSING CONSTRUCTION, ARMY

2 For expenses of family housing for the Army for con-
3 struction, including acquisition, replacement, addition, ex-
4 pansion, extension, and alteration, as authorized by law,
5 \$678,580,000, to remain available until September 30,
6 2013.

7 FAMILY HOUSING OPERATION AND MAINTENANCE,
8 ARMY

9 For expenses of family housing for the Army for op-
10 eration and maintenance, including debt payment, leasing,
11 minor construction, principal and interest charges, and in-
12 surance premiums, as authorized by law, \$721,110,000.

13 FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE
14 CORPS

15 For expenses of family housing for the Navy and Ma-
16 rine Corps for construction, including acquisition, replace-
17 ment, addition, expansion, extension, and alteration, as
18 authorized by law, \$381,073,000, to remain available until
19 September 30, 2013.

20 FAMILY HOUSING OPERATION AND MAINTENANCE,
21 NAVY AND MARINE CORPS

22 For expenses of family housing for the Navy and Ma-
23 rine Corps for operation and maintenance, including debt
24 payment, leasing, minor construction, principal and inter-

4 For expenses of family housing for the Air Force for
5 construction, including acquisition, replacement, addition,
6 expansion, extension, and alteration, as authorized by law,
7 \$395,879,000, to remain available until September 30,
8 2013.

11 For expenses of family housing for the Air Force for
12 operation and maintenance, including debt payment, leas-
13 ing, minor construction, principal and interest charges,
14 and insurance premiums, as authorized by law,
15 \$604,465,000.

18 For expenses of family housing for the activities and
19 agencies of the Department of Defense (other than the
20 military departments) for operation and maintenance,
21 leasing, and minor construction, as authorized by law,
22 \$49,231,000.

1 DEPARTMENT OF DEFENSE FAMILY HOUSING
2 IMPROVEMENT FUND

3 For the Department of Defense Family Housing Im-
4 provement Fund, \$850,000, to remain available until ex-
5 pended, for family housing initiatives undertaken pursu-
6 ant to section 2883 of title 10, United States Code, pro-
7 viding alternative means of acquiring and improving mili-
8 tary family housing and supporting facilities.

9 HOMEOWNERS ASSISTANCE FUND

10 For the Homeowners Assistance Fund established by
11 section 1013 of the Demonstration Cities and Metropoli-
12 tan Development Act of 1966, as amended (42 U.S.C.
13 3374), \$4,500,000, to remain available until expended.

14 CHEMICAL DEMILITARIZATION CONSTRUCTION,
15 DEFENSE-WIDE

16 For expenses of construction, not otherwise provided
17 for, necessary for the destruction of the United States
18 stockpile of lethal chemical agents and munitions in ac-
19 cordance with section 1412 of the Department of Defense
20 Authorization Act, 1986 (50 U.S.C. 1521), and for the
21 destruction of other chemical warfare materials that are
22 not in the chemical weapon stockpile, as currently author-
23 ized by law, \$144,278,000, to remain available until Sep-
24 tember 30, 2013, which shall be only for the Assembled
25 Chemical Weapons Alternatives program.

1 DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT

2 1990

3 For deposit into the Department of Defense Base
4 Closure Account 1990, established by section 2906(a)(1)
5 of the Defense Base Closure and Realignment Act of 1990
6 (10 U.S.C. 2687 note), \$468,377,000, to remain available
7 until expended.

8 DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT

9 2005

10 For deposit into the Department of Defense Base
11 Closure Account 2005, established by section 2906A(a)(1)
12 of the Defense Base Closure and Realignment Act of 1990
13 (10 U.S.C. 2687 note), \$8,991,700,000, to remain avail-
14 able until expended: *Provided*, That the Department of
15 Defense shall notify the Committees on Appropriations of
16 both Houses of Congress 14 days prior to obligating an
17 amount for a construction project that exceeds or reduces
18 the amount identified for that project in the most recently
19 submitted budget request for this account by 20 percent
20 or \$2,000,000, whichever is less: *Provided further*, That
21 the previous proviso shall not apply to projects costing less
22 than \$5,000,000, except for those projects not previously
23 identified in any budget submission for this account and
24 exceeding the minor construction threshold under 10
25 U.S.C. 2805.

1 ADMINISTRATIVE PROVISIONS

2 SEC. 101. None of the funds made available in this
3 title shall be expended for payments under a cost-plus-a-
4 fixed-fee contract for construction, where cost estimates
5 exceed \$25,000, to be performed within the United States,
6 except Alaska, without the specific approval in writing of
7 the Secretary of Defense setting forth the reasons there-
8 for.

9 SEC. 102. Funds made available in this title for con-
10 struction shall be available for hire of passenger motor ve-
11 hicles.

12 SEC. 103. Funds made available in this title for con-
13 struction may be used for advances to the Federal High-
14 way Administration, Department of Transportation, for
15 the construction of access roads as authorized by section
16 210 of title 23, United States Code, when projects author-
17 ized therein are certified as important to the national de-
18 fense by the Secretary of Defense.

19 SEC. 104. None of the funds made available in this
20 title may be used to begin construction of new bases in
21 the United States for which specific appropriations have
22 not been made.

23 SEC. 105. None of the funds made available in this
24 title shall be used for purchase of land or land easements
25 in excess of 100 percent of the value as determined by

1 the Army Corps of Engineers or the Naval Facilities Engi-
2 neering Command, except: (1) where there is a determina-
3 tion of value by a Federal court; (2) purchases negotiated
4 by the Attorney General or the designee of the Attorney
5 General; (3) where the estimated value is less than
6 \$25,000; or (4) as otherwise determined by the Secretary
7 of Defense to be in the public interest.

8 SEC. 106. None of the funds made available in this
9 title shall be used to: (1) acquire land; (2) provide for site
10 preparation; or (3) install utilities for any family housing,
11 except housing for which funds have been made available
12 in annual Acts making appropriations for military con-
13 struction.

14 SEC. 107. None of the funds made available in this
15 title for minor construction may be used to transfer or
16 relocate any activity from one base or installation to an-
17 other, without prior notification to the Committees on Ap-
18 propriations of both Houses of Congress.

19 SEC. 108. None of the funds made available in this
20 title may be used for the procurement of steel for any con-
21 struction project or activity for which American steel pro-
22 ducers, fabricators, and manufacturers have been denied
23 the opportunity to compete for such steel procurement.

24 SEC. 109. None of the funds available to the Depart-
25 ment of Defense for military construction or family hous-

1 ing during the current fiscal year may be used to pay real
2 property taxes in any foreign nation.

3 SEC. 110. None of the funds made available in this
4 title may be used to initiate a new installation overseas
5 without prior notification to the Committees on Appro-
6 priations of both Houses of Congress.

7 SEC. 111. None of the funds made available in this
8 title may be obligated for architect and engineer contracts
9 estimated by the Government to exceed \$500,000 for
10 projects to be accomplished in Japan, in any North Atlan-
11 tic Treaty Organization member country, or in countries
12 bordering the Arabian Sea, unless such contracts are
13 awarded to United States firms or United States firms
14 in joint venture with host nation firms.

15 SEC. 112. None of the funds made available in this
16 title for military construction in the United States terri-
17 tories and possessions in the Pacific and on Kwajalein
18 Atoll, or in countries bordering the Arabian Sea, may be
19 used to award any contract estimated by the Government
20 to exceed \$1,000,000 to a foreign contractor: *Provided*,
21 That this section shall not be applicable to contract
22 awards for which the lowest responsive and responsible bid
23 of a United States contractor exceeds the lowest respon-
24 sive and responsible bid of a foreign contractor by greater
25 than 20 percent: *Provided further*, That this section shall

1 not apply to contract awards for military construction on
2 Kwajalein Atoll for which the lowest responsive and re-
3 sponsible bid is submitted by a Marshallese contractor.

4 SEC. 113. The Secretary of Defense is to inform the
5 appropriate committees of both Houses of Congress, in-
6 cluding the Committees on Appropriations, of the plans
7 and scope of any proposed military exercise involving
8 United States personnel 30 days prior to its occurring,
9 if amounts expended for construction, either temporary or
10 permanent, are anticipated to exceed \$100,000.

11 SEC. 114. Not more than 20 percent of the funds
12 made available in this title which are limited for obligation
13 during the current fiscal year shall be obligated during
14 the last two months of the fiscal year.

15 (INCLUDING TRANSFER OF FUNDS)

16 SEC. 115. Funds appropriated to the Department of
17 Defense for construction in prior years shall be available
18 for construction authorized for each such military depart-
19 ment by the authorizations enacted into law during the
20 current session of Congress.

21 SEC. 116. For military construction or family housing
22 projects that are being completed with funds otherwise ex-
23 pired or lapsed for obligation, expired or lapsed funds may
24 be used to pay the cost of associated supervision, inspec-
25 tion, overhead, engineering and design on those projects
26 and on subsequent claims, if any.

1 SEC. 117. Notwithstanding any other provision of
2 law, any funds made available to a military department
3 or defense agency for the construction of military projects
4 may be obligated for a military construction project or
5 contract, or for any portion of such a project or contract,
6 at any time before the end of the fourth fiscal year after
7 the fiscal year for which funds for such project were made
8 available, if the funds obligated for such project: (1) are
9 obligated from funds available for military construction
10 projects; and (2) do not exceed the amount appropriated
11 for such project, plus any amount by which the cost of
12 such project is increased pursuant to law.

13 SEC. 118. (a) The Secretary of Defense, in consulta-
14 tion with the Secretary of State, shall submit to the Com-
15 mittees on Appropriations of both Houses of Congress, by
16 February 15 of each year, an annual report in unclassified
17 and, if necessary, classified form, on actions taken by the
18 Department of Defense and the Department of State dur-
19 ing the previous fiscal year to encourage host countries
20 to assume a greater share of the common defense burden
21 of such countries and the United States.

22 (b) The report under subsection (a) shall include a
23 description of—

1 (1) attempts to secure cash and in-kind con-
2 tributions from host countries for military construc-
3 tion projects;

4 (2) attempts to achieve economic incentives of-
5 fered by host countries to encourage private invest-
6 ment for the benefit of the United States Armed
7 Forces;

8 (3) attempts to recover funds due to be paid to
9 the United States by host countries for assets deed-
10 ed or otherwise imparted to host countries upon the
11 cessation of United States operations at military in-
12 stallations;

13 (4) the amount spent by host countries on de-
14 fense, in dollars and in terms of the percent of gross
15 domestic product (GDP) of the host country; and

16 (5) for host countries that are members of the
17 North Atlantic Treaty Organization (NATO), the
18 amount contributed to NATO by host countries, in
19 dollars and in terms of the percent of the total
20 NATO budget.

21 (c) In this section, the term “host country” means
22 other member countries of NATO, Japan, South Korea,
23 and United States allies bordering the Arabian Sea.

24 (INCLUDING TRANSFER OF FUNDS)

25 SEC. 119. In addition to any other transfer authority
26 available to the Department of Defense, proceeds depos-

1 ited to the Department of Defense Base Closure Account
 2 established by section 207(a)(1) of the Defense Authoriza-
 3 tion Amendments and Base Closure and Realignment Act
 4 (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C)
 5 of such Act, may be transferred to the account established
 6 by section 2906(a)(1) of the Defense Base Closure and
 7 Realignment Act of 1990 (10 U.S.C. 2687 note), to be
 8 merged with, and to be available for the same purposes
 9 and the same time period as that account.

10 (INCLUDING TRANSFER OF FUNDS)

11 SEC. 120. Subject to 30 days prior notification to the
 12 Committees on Appropriations of both Houses of Con-
 13 gress, such additional amounts as may be determined by
 14 the Secretary of Defense may be transferred to: (1) the
 15 Department of Defense Family Housing Improvement
 16 Fund from amounts appropriated for construction in
 17 “Family Housing” accounts, to be merged with and to be
 18 available for the same purposes and for the same period
 19 of time as amounts appropriated directly to the Fund; or
 20 (2) the Department of Defense Military Unaccompanied
 21 Housing Improvement Fund from amounts appropriated
 22 for construction of military unaccompanied housing in
 23 “Military Construction” accounts, to be merged with and
 24 to be available for the same purposes and for the same
 25 period of time as amounts appropriated directly to the
 26 Fund: *Provided*, That appropriations made available to

1 the Funds shall be available to cover the costs, as defined
2 in section 502(5) of the Congressional Budget Act of
3 1974, of direct loans or loan guarantees issued by the De-
4 partment of Defense pursuant to the provisions of sub-
5 chapter IV of chapter 169 of title 10, United States Code,
6 pertaining to alternative means of acquiring and improv-
7 ing military family housing, military unaccompanied hous-
8 ing, and supporting facilities.

9 SEC. 121. (a) Not later than 60 days before issuing
10 any solicitation for a contract with the private sector for
11 military family housing the Secretary of the military de-
12 partment concerned shall submit to the Committees on
13 Appropriations of both Houses of Congress the notice de-
14 scribed in subsection (b).

15 (b)(1) A notice referred to in subsection (a) is a no-
16 tice of any guarantee (including the making of mortgage
17 or rental payments) proposed to be made by the Secretary
18 to the private party under the contract involved in the
19 event of—

20 (A) the closure or realignment of the installa-
21 tion for which housing is provided under the con-
22 tract;

23 (B) a reduction in force of units stationed at
24 such installation; or

1 (C) the extended deployment overseas of units
2 stationed at such installation.

3 (2) Each notice under this subsection shall specify
4 the nature of the guarantee involved and assess the extent
5 and likelihood, if any, of the liability of the Federal Gov-
6 ernment with respect to the guarantee.

7 (INCLUDING TRANSFER OF FUNDS)

8 SEC. 122. In addition to any other transfer authority
9 available to the Department of Defense, amounts may be
10 transferred from the accounts established by sections
11 2906(a)(1) and 2906A(a)(1) of the Defense Base Closure
12 and Realignment Act of 1990 (10 U.S.C. 2687 note), to
13 the fund established by section 1013(d) of the Demonstra-
14 tion Cities and Metropolitan Development Act of 1966 (42
15 U.S.C. 3374) to pay for expenses associated with the
16 Homeowners Assistance Program. Any amounts trans-
17 ferred shall be merged with and be available for the same
18 purposes and for the same time period as the fund to
19 which transferred.

20 SEC. 123. Funds made available in this title for oper-
21 ation and maintenance of family housing shall be the ex-
22 clusive source of funds for repair and maintenance of all
23 family housing units, including general or flag officer
24 quarters: *Provided*, That not more than \$35,000 per unit
25 may be spent annually for the maintenance and repair of
26 any general or flag officer quarters without 30 days prior

1 notification to the Committees on Appropriations of both
 2 Houses of Congress, except that an after-the-fact notifica-
 3 tion shall be submitted if the limitation is exceeded solely
 4 due to costs associated with environmental remediation
 5 that could not be reasonably anticipated at the time of
 6 the budget submission: *Provided further*, That the Under
 7 Secretary of Defense (Comptroller) is to report annually
 8 to the Committees on Appropriations of both Houses of
 9 Congress all operation and maintenance expenditures for
 10 each individual general or flag officer quarters for the
 11 prior fiscal year.

12 SEC. 124. Amounts contained in the Ford Island Im-
 13 provement Account established by subsection (h) of sec-
 14 tion 2814 of title 10, United States Code, are appro-
 15 priated and shall be available until expended for the pur-
 16 poses specified in subsection (i)(1) of such section or until
 17 transferred pursuant to subsection (i)(3) of such section.

18 (INCLUDING TRANSFER OF FUNDS)

19 SEC. 125. None of the funds made available in this
 20 title, or in any Act making appropriations for military con-
 21 struction which remain available for obligation, may be ob-
 22 ligated or expended to carry out a military construction,
 23 land acquisition, or family housing project at or for a mili-
 24 tary installation approved for closure, or at a military in-
 25 stallation for the purposes of supporting a function that
 26 has been approved for realignment to another installation,

1 in 2005 under the Defense Base Closure and Realignment
2 Act of 1990 (part A of title XXIX of Public Law 101–
3 510; 10 U.S.C. 2687 note), unless such a project at a mili-
4 tary installation approved for realignment will support a
5 continuing mission or function at that installation or a
6 new mission or function that is planned for that installa-
7 tion, or unless the Secretary of Defense certifies that the
8 cost to the United States of carrying out such project
9 would be less than the cost to the United States of cancel-
10 ling such project, or if the project is at an active compo-
11 nent base that shall be established as an enclave or in the
12 case of projects having multi-agency use, that another
13 Government agency has indicated it will assume ownership
14 of the completed project. The Secretary of Defense may
15 not transfer funds made available as a result of this limi-
16 tation from any military construction project, land acquisi-
17 tion, or family housing project to another account or use
18 such funds for another purpose or project without the
19 prior approval of the Committees on Appropriations of
20 both Houses of Congress. This section shall not apply to
21 military construction projects, land acquisition, or family
22 housing projects for which the project is vital to the na-
23 tional security or the protection of health, safety, or envi-
24 ronmental quality: *Provided*, That the Secretary of De-
25 fense shall notify the congressional defense committees

1 within seven days of a decision to carry out such a military
 2 construction project.

3 (INCLUDING TRANSFER OF FUNDS)

4 SEC. 126. During the 5-year period after appropria-
 5 tions available in this Act to the Department of Defense
 6 for military construction and family housing operation and
 7 maintenance and construction have expired for obligation,
 8 upon a determination that such appropriations will not be
 9 necessary for the liquidation of obligations or for making
 10 authorized adjustments to such appropriations for obliga-
 11 tions incurred during the period of availability of such ap-
 12 propriations, unobligated balances of such appropriations
 13 may be transferred into the appropriation “Foreign Cur-
 14 rency Fluctuations, Construction, Defense”, to be merged
 15 with and to be available for the same time period and for
 16 the same purposes as the appropriation to which trans-
 17 ferred.

18 SEC. 127. Amounts appropriated or otherwise made
 19 available in this title for “Military Construction, Army”,
 20 “Military Construction, Navy and Marine Corps”, Military
 21 Construction, Air Force”, “Military Construction, De-
 22 fense-Wide”, Military Construction, Army National
 23 Guard”, “Military Construction, Air National Guard”,
 24 “Military Construction, Army Reserve”, Military Con-
 25 struction, Navy Reserve”, “Military Construction, Air
 26 Force Reserve”, “Family Housing Construction, Army”,

1 “Family Housing Construction, Navy and Marine Corps”,
 2 “Family Housing Construction, Air Force”, “Family
 3 Housing Construction, Defense-Wide”, and “Chemical
 4 Demilitarization Construction, Defense-Wide” shall be for
 5 the projects and activities, and in the amounts specified,
 6 identified under those headings in the Committee rec-
 7 ommendations and detail tables, including the table enti-
 8 tled “Military Construction Project Listing by Location”
 9 in the report accompanying this Act: *Provided*, That
 10 amounts appropriated or otherwise made available in an
 11 account listed in this provision may be transferred among
 12 projects and activities within that account in accordance
 13 with the reprogramming guidelines for military construc-
 14 tion and family housing construction contained in the re-
 15 port accompanying this Act, and in the guidance for mili-
 16 tary construction reprogrammings and notifications con-
 17 tained in Department of Defense Financial Management
 18 Regulation 7000.14–R, Volume 3, Chapter 7, of December
 19 1996, as in effect on the date of enactment of this Act.

20 (INCLUDING TRANSFER OF FUNDS)

21 SEC. 128. (a) Of the amount appropriated or other-
 22 wise made available by this Act for the Department of De-
 23 fense under the heading “Military Construction, Air
 24 Force” and available for planning and design, the Sec-
 25 retary of the Air Force shall, in accordance with section
 26 1535 of title 31, United States Code, transfer \$500,000

1 to the American Battle Monuments Commission to con-
2 duct an engineering study on the restoration of the Lafay-
3 ette Escadrille Memorial in Marnes-La-Coquette, France.

4 (b) The study conducted pursuant to subsection (a)
5 shall include:

6 (1) an estimate of costs to be incurred to re-
7 store the structure, features, landscaped grounds
8 and caretaker's quarters of the Lafayette Escadrille
9 Memorial to standards similar to memorials and
10 burial grounds administered by the American Battle
11 Monuments Commission; and

12 (2) an estimate of annual costs for the long-
13 term preservation, maintenance, and operation of
14 the memorial under those standards.

15 (c) The amount transferred under subsection (a)
16 shall remain available until expended.

17 (d) Not later than 18 months after the date of the
18 transfer of funds to the American Battle Monuments
19 Commission, the Commission shall submit to the Commit-
20 tees on Appropriations of both Houses of Congress a re-
21 port on the findings of the study conducted pursuant to
22 subsection (a).

1 TITLE II
2 DEPARTMENT OF VETERANS AFFAIRS
3 VETERANS BENEFITS ADMINISTRATION
4 COMPENSATION AND PENSIONS
5 (INCLUDING TRANSFER OF FUNDS)

6 For the payment of compensation benefits to or on
7 behalf of veterans and a pilot program for disability ex-
8 aminations as authorized by section 107 and chapters 11,
9 13, 18, 51, 53, 55, and 61 of title 38, United States Code;
10 pension benefits to or on behalf of veterans as authorized
11 by chapters 15, 51, 53, 55, and 61 of title 38, United
12 States Code; and burial benefits, the Reinstated Entitle-
13 ment Program for Survivors, emergency and other offi-
14 cers' retirement pay, adjusted-service credits and certifi-
15 cates, payment of premiums due on commercial life insur-
16 ance policies guaranteed under the provisions of title IV
17 of the Servicemembers Civil Relief Act (50 U.S.C. App.
18 541 et seq.) and for other benefits as authorized by sec-
19 tions 107, 1312, 1977, and 2106, and chapters 23, 51,
20 53, 55, and 61 of title 38, United States Code,
21 \$43,111,681,000, to remain available until expended: *Pro-*
22 *vided*, That not to exceed \$26,798,000 of the amount ap-
23 propriated under this heading shall be reimbursed to
24 "General operating expenses", "Medical services", and
25 "Information technology systems" for necessary expenses
26 in implementing the provisions of chapters 51, 53, and

1 55 of title 38, United States Code, the funding source for
 2 which is specifically provided as the “Compensation and
 3 pensions” appropriation: *Provided further*, That such sums
 4 as may be earned on an actual qualifying patient basis,
 5 shall be reimbursed to “Medical care collections fund” to
 6 augment the funding of individual medical facilities for
 7 nursing home care provided to pensioners as authorized.

8 READJUSTMENT BENEFITS

9 For the payment of readjustment and rehabilitation
 10 benefits to or on behalf of veterans as authorized by chap-
 11 ters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61 of
 12 title 38, United States Code, \$3,832,944,000, to remain
 13 available until expended: *Provided*, That expenses for re-
 14 habilitation program services and assistance which the
 15 Secretary is authorized to provide under subsection (a) of
 16 section 3104 of title 38, United States Code, other than
 17 under paragraphs (1), (2), (5), and (11) of that sub-
 18 section, shall be charged to this account.

19 VETERANS INSURANCE AND INDEMNITIES

20 For military and naval insurance, national service life
 21 insurance, servicemen’s indemnities, service-disabled vet-
 22 erans insurance, and veterans mortgage life insurance as
 23 authorized by title 38, United States Code, chapters 19
 24 and 21, \$42,300,000, to remain available until expended.

1 VETERANS HOUSING BENEFIT PROGRAM FUND

2 For the cost of direct and guaranteed loans, such
 3 sums as may be necessary to carry out the program, as
 4 authorized by subchapters I through III of chapter 37 of
 5 title 38, United States Code: *Provided*, That such costs,
 6 including the cost of modifying such loans, shall be as de-
 7 fined in section 502 of the Congressional Budget Act of
 8 1974: *Provided further*, That during fiscal year 2009,
 9 within the resources available, not to exceed \$500,000 in
 10 gross obligations for direct loans are authorized for spe-
 11 cially adapted housing loans.

12 In addition, for administrative expenses to carry out
 13 the direct and guaranteed loan programs, \$157,210,000.

14 VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT
 15 (INCLUDING TRANSFER OF FUNDS)

16 For the cost of direct loans, \$61,000, as authorized
 17 by chapter 31 of title 38, United States Code: *Provided*,
 18 That such costs, including the cost of modifying such
 19 loans, shall be as defined in section 502 of the Congres-
 20 sional Budget Act of 1974: *Provided further*, That funds
 21 made available under this heading are available to sub-
 22 sidize gross obligations for the principal amount of direct
 23 loans not to exceed \$3,180,000.

24 In addition, for administrative expenses necessary to
 25 carry out the direct loan program, \$320,000, which may

1 be paid to the appropriation for “General operating ex-
2 penses”.

3 NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM
4 ACCOUNT

5 For administrative expenses to carry out the direct
6 loan program authorized by subchapter V of chapter 37
7 of title 38, United States Code, \$646,000.

8 GUARANTEED TRANSITIONAL HOUSING LOANS FOR
9 HOMELESS VETERANS PROGRAM ACCOUNT

10 For the administrative expenses to carry out the
11 guaranteed transitional housing loan program authorized
12 by subchapter VI of chapter 20 of title 38, United States
13 Code, not to exceed \$750,000 of the amounts appropriated
14 by this Act for “General operating expenses” and “Med-
15 ical services” may be expended.

16 VETERANS HEALTH ADMINISTRATION
17 MEDICAL SERVICES
18 (INCLUDING TRANSFER OF FUNDS)

19 For necessary expenses for furnishing, as authorized
20 by law, inpatient and outpatient care and treatment to
21 beneficiaries of the Department of Veterans Affairs and
22 veterans described in section 1705(a) of title 38, United
23 States Code, including care and treatment in facilities not
24 under the jurisdiction of the Department, and including
25 medical supplies and equipment, food services, and sala-
26 ries and expenses of health-care employees hired under

1 title 38, United States Code, and aid to State homes as
2 authorized by section 1741 of title 38, United States Code;
3 and for necessary expenses in the administration of the
4 medical, hospital, nursing home, domiciliary, construction,
5 supply, and research activities, as authorized by law; ad-
6 ministrative expenses in support of capital policy activi-
7 ties; and administrative and legal expenses of the Depart-
8 ment for collecting and recovering amounts owed the De-
9 partment as authorized under chapter 17 of title 38,
10 United States Code, and the Federal Medical Care Recov-
11 ery Act (42 U.S.C. 2651 et seq.); \$35,590,432,000 plus
12 reimbursements, of which \$250,000,000 shall be for estab-
13 lishment and implementation of a new rural health out-
14 reach and delivery initiative: *Provided*, That of the funds
15 made available under this heading, not to exceed
16 \$1,850,000,000 shall be available until September 30,
17 2010: *Provided further*, That, notwithstanding any other
18 provision of law, the Secretary of Veterans Affairs shall
19 establish a priority for the provision of medical treatment
20 for veterans who have service-connected disabilities, lower
21 income, or have special needs: *Provided further*, That, not-
22 withstanding any other provision of law, the Secretary of
23 Veterans Affairs shall give priority funding for the provi-
24 sion of basic medical benefits to veterans in enrollment
25 priority groups 1 through 6: *Provided further*, That, not-

1 withstanding any other provision of law, the Secretary of
2 Veterans Affairs may authorize the dispensing of prescrip-
3 tion drugs from Veterans Health Administration facilities
4 to enrolled veterans with privately written prescriptions
5 based on requirements established by the Secretary: *Pro-*
6 *vided further*, That the implementation of the program de-
7 scribed in the previous proviso shall incur no additional
8 cost to the Department of Veterans Affairs: *Provided fur-*
9 *ther*, That for the Department of Defense/Department of
10 Veterans Affairs Health Care Sharing Incentive Fund, as
11 authorized by section 8111(d) of title 38, United States
12 Code, a minimum of \$15,000,000, to remain available
13 until expended, for any purpose authorized by section
14 8111 of title 38, United States Code.

15 MEDICAL FACILITIES

16 For necessary expenses for the maintenance and op-
17 eration of hospitals, nursing homes, and domiciliary facili-
18 ties and other necessary facilities of the Veterans Health
19 Administration; for administrative expenses in support of
20 planning, design, project management, real property ac-
21 quisition and disposition, construction, and renovation of
22 any facility under the jurisdiction or for the use of the
23 Department; for oversight, engineering, and architectural
24 activities not charged to project costs; for repairing, alter-
25 ing, improving, or providing facilities in the several hos-
26 pitals and homes under the jurisdiction of the Depart-

1 ment, not otherwise provided for, either by contract or by
 2 the hire of temporary employees and purchase of mate-
 3 rials; for leases of facilities; and for laundry services,
 4 \$4,961,000,000, plus reimbursements, of which
 5 \$350,000,000 shall be available until September 30, 2010:
 6 *Provided, That* \$300,000,000 for non-recurring mainte-
 7 nance provided under this heading shall be allocated in
 8 a manner not subject to the Veterans Equitable Resource
 9 Allocation.

10 MEDICAL AND PROSTHETIC RESEARCH

11 For necessary expenses in carrying out programs of
 12 medical and prosthetic research and development as au-
 13 thorized by chapter 73 of title 38, United States Code,
 14 \$526,800,000, plus reimbursements, to remain available
 15 until September 30, 2010.

16 NATIONAL CEMETERY ADMINISTRATION

17 For necessary expenses of the National Cemetery Ad-
 18 ministration for operations and maintenance, not other-
 19 wise provided for, including uniforms or allowances there-
 20 for; cemeterial expenses as authorized by law; purchase
 21 of one passenger motor vehicle for use in cemeterial oper-
 22 ations; hire of passenger motor vehicles; and repair, alter-
 23 ation or improvement of facilities under the jurisdiction
 24 of the National Cemetery Administration, \$230,000,000,
 25 of which not to exceed \$23,000,000 shall be available until
 26 September 30, 2010.

1 DEPARTMENTAL ADMINISTRATION

2 GENERAL OPERATING EXPENSES

3 For necessary operating expenses of the Department
4 of Veterans Affairs, not otherwise provided for, including
5 administrative expenses in support of Department-Wide
6 capital planning, management and policy activities, uni-
7 forms, or allowances therefor; not to exceed \$25,000 for
8 official reception and representation expenses; hire of pas-
9 senger motor vehicles; and reimbursement of the General
10 Services Administration for security guard services, and
11 the Department of Defense for the cost of overseas em-
12 ployee mail, \$1,779,125,000: *Provided*, That expenses for
13 services and assistance authorized under paragraphs (1),
14 (2), (5), and (11) of section 3104(a) of title 38, United
15 States Code, that the Secretary of Veterans Affairs deter-
16 mines are necessary to enable entitled veterans: (1) to the
17 maximum extent feasible, to become employable and to ob-
18 tain and maintain suitable employment; or (2) to achieve
19 maximum independence in daily living, shall be charged
20 to this account: *Provided further*, That the Veterans Bene-
21 fits Administration shall be funded at not less than
22 \$1,441,753,000: *Provided further*, That of the funds made
23 available under this heading, not to exceed \$83,000,000
24 shall be available for obligation until September 30, 2010:
25 *Provided further*, That from the funds made available

1 under this heading, the Veterans Benefits Administration
 2 may purchase (on a one-for-one replacement basis only)
 3 up to two passenger motor vehicles for use in operations
 4 of that Administration in Manila, Philippines.

5 INFORMATION TECHNOLOGY SYSTEMS

6 For necessary expenses for information technology
 7 systems and telecommunications support, including devel-
 8 opmental information systems and operational information
 9 systems; including pay and associated cost for operations
 10 and maintenance associated staff; for the capital asset ac-
 11 quisition of information technology systems, including
 12 management and related contractual costs of said acquisi-
 13 tions, including contractual costs associated with oper-
 14 ations authorized by section 3109 of title 5, United States
 15 Code, \$2,471,166,000, plus reimbursements, to be avail-
 16 able until September 30, 2010: *Provided*, That of the
 17 funds made available under this heading, not less than
 18 \$67,200,000 shall be for the Financial and Logistics Inte-
 19 grated Technology Enterprise program: *Provided further*,
 20 That none of these funds may be obligated until the De-
 21 partment of Veterans Affairs submits to the Committees
 22 on Appropriations of both Houses of Congress, and such
 23 Committees approve, a plan for expenditure that: (1)
 24 meets the capital planning and investment control review
 25 requirements established by the Office of Management
 26 and Budget; (2) complies with the Department of Vet-

1 erans Affairs enterprise architecture; (3) conforms with an
2 established enterprise life cycle methodology; and (4) com-
3 plies with the acquisition rules, requirements, guidelines,
4 and systems acquisition management practices of the Fed-
5 eral Government: *Provided further*, That within 30 days
6 of enactment of this Act, the Secretary of Veterans Affairs
7 shall submit to the Committees on Appropriations of both
8 Houses of Congress a reprogramming base letter which
9 provides, by project, the costs included in this appropria-
10 tion.

11 OFFICE OF INSPECTOR GENERAL

12 For necessary expenses of the Office of Inspector
13 General, to include information technology, in carrying out
14 the provisions of the Inspector General Act of 1978 (5
15 U.S.C. App.), \$93,900,000, of which \$5,000,000 shall be
16 available until September 30, 2010.

17 CONSTRUCTION, MAJOR PROJECTS

18 For constructing, altering, extending, and improving
19 any of the facilities, including parking projects, under the
20 jurisdiction or for the use of the Department of Veterans
21 Affairs, or for any of the purposes set forth in sections
22 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110,
23 and 8122 of title 38, United States Code, including plan-
24 ning, architectural and engineering services, construction
25 management services, maintenance or guarantee period
26 services costs associated with equipment guarantees pro-

1 vided under the project, services of claims analysts, offsite
2 utility and storm drainage system construction costs, and
3 site acquisition, where the estimated cost of a project is
4 more than the amount set forth in section 8104(a)(3)(A)
5 of title 38, United States Code, or where funds for a
6 project were made available in a previous major project
7 appropriation, \$1,217,747,000, to remain available until
8 expended, of which \$10,000,000 shall be to make reim-
9 bursements as provided in section 13 of the Contract Dis-
10 putes Act of 1978 (41 U.S.C. 612) for claims paid for
11 contract disputes: *Provided*, That except for advance plan-
12 ning activities, including needs assessments which may or
13 may not lead to capital investments, and other capital
14 asset management related activities, including portfolio
15 development and management activities, and investment
16 strategy studies funded through the advance planning
17 fund and the planning and design activities funded
18 through the design fund, including needs assessments
19 which may or may not lead to capital investments, and
20 funds provided for the purchase of land for the National
21 Cemetery Administration through the land acquisition line
22 item, none of the funds appropriated under this heading
23 shall be used for any project which has not been approved
24 by the Congress in the budgetary process: *Provided fur-*
25 *ther*, That funds provided in this appropriation for fiscal

1 year 2009, for each approved project shall be obligated:
 2 (1) by the awarding of a construction documents contract
 3 by September 30, 2009; and (2) by the awarding of a con-
 4 struction contract by September 30, 2010: *Provided fur-*
 5 *ther*, That the Secretary of Veterans Affairs shall promptly
 6 submit to the Committees on Appropriations of both
 7 Houses of Congress a written report on any approved
 8 major construction project for which obligations are not
 9 incurred within the time limitations established above.

10 CONSTRUCTION, MINOR PROJECTS

11 For constructing, altering, extending, and improving
 12 any of the facilities, including parking projects, under the
 13 jurisdiction or for the use of the Department of Veterans
 14 Affairs, including planning and assessments of needs
 15 which may lead to capital investments, architectural and
 16 engineering services, maintenance or guarantee period
 17 services costs associated with equipment guarantees pro-
 18 vided under the project, services of claims analysts, offsite
 19 utility and storm drainage system construction costs, and
 20 site acquisition, or for any of the purposes set forth in
 21 sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109,
 22 8110, 8122, and 8162 of title 38, United States Code,
 23 where the estimated cost of a project is equal to or less
 24 than the amount set forth in section 8104(a)(3)(A) of title
 25 38, United States Code, \$729,418,000, to remain avail-
 26 able until expended, along with unobligated balances of

1 previous “Construction, minor projects” appropriations
 2 which are hereby made available for any project where the
 3 estimated cost is equal to or less than the amount set forth
 4 in such section: *Provided*, That funds in this account shall
 5 be available for: (1) repairs to any of the nonmedical facili-
 6 ties under the jurisdiction or for the use of the Depart-
 7 ment which are necessary because of loss or damage
 8 caused by any natural disaster or catastrophe; and (2)
 9 temporary measures necessary to prevent or to minimize
 10 further loss by such causes.

11 GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE
 12 FACILITIES

13 For grants to assist States to acquire or construct
 14 State nursing home and domiciliary facilities and to re-
 15 model, modify, or alter existing hospital, nursing home,
 16 and domiciliary facilities in State homes, for furnishing
 17 care to veterans as authorized by sections 8131 through
 18 8137 of title 38, United States Code, \$250,000,000, to
 19 remain available until expended.

20 GRANTS FOR CONSTRUCTION OF STATE VETERANS
 21 CEMETERIES

22 For grants to assist States in establishing, expand-
 23 ing, or improving State veterans cemeteries as authorized
 24 by section 2408 of title 38, United States Code,
 25 \$42,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for fiscal year 2009 for “Compensation and pensions”, “Readjustment benefits”, and “Veterans insurance and indemnities” may be transferred as necessary to any other of the mentioned appropriations: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and such Committees issue an approval, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. Amounts made available for the Department of Veterans Affairs for fiscal year 2009, in this Act or any other Act, under the “Medical services” and “Medical facilities” accounts may be transferred between the accounts to the extent necessary to implement the restructuring of the Veterans Health Administration accounts: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

SEC. 203. Appropriations available in this title for salaries and expenses shall be available for services authorized by section 3109 of title 5, United States Code,

1 hire of passenger motor vehicles; lease of a facility or land
2 or both; and uniforms or allowances therefore, as author-
3 ized by sections 5901 through 5902 of title 5, United
4 States Code.

5 SEC. 204. No appropriations in this title (except the
6 appropriations for “Construction, major projects”, and
7 “Construction, minor projects”) shall be available for the
8 purchase of any site for or toward the construction of any
9 new hospital or home.

10 SEC. 205. No appropriations in this title shall be
11 available for hospitalization or examination of any persons
12 (except beneficiaries entitled to such hospitalization or ex-
13 amination under the laws providing such benefits to vet-
14 erans, and persons receiving such treatment under sec-
15 tions 7901 through 7904 of title 5, United States Code,
16 or the Robert T. Stafford Disaster Relief and Emergency
17 Assistance Act (42 U.S.C. 5121 et seq.)), unless reim-
18 bursement of the cost of such hospitalization or examina-
19 tion is made to the “Medical services” account at such
20 rates as may be fixed by the Secretary of Veterans Affairs.

21 SEC. 206. Appropriations available in this title for
22 “Compensation and pensions”, “Readjustment benefits”,
23 and “Veterans insurance and indemnities” shall be avail-
24 able for payment of prior year accrued obligations re-
25 quired to be recorded by law against the corresponding

1 prior year accounts within the last quarter of fiscal year
2 2008.

3 SEC. 207. Appropriations available in this title shall
4 be available to pay prior year obligations of corresponding
5 prior year appropriations accounts resulting from sections
6 3328(a), 3334, and 3712(a) of title 31, United States
7 Code, except that if such obligations are from trust fund
8 accounts they shall be payable only from “Compensation
9 and pensions”.

10 (INCLUDING TRANSFER OF FUNDS)

11 SEC. 208. Notwithstanding any other provision of
12 law, during fiscal year 2009, the Secretary of Veterans
13 Affairs shall, from the National Service Life Insurance
14 Fund (38 U.S.C. 1920), the Veterans’ Special Life Insur-
15 ance Fund (38 U.S.C. 1923), and the United States Gov-
16 ernment Life Insurance Fund (38 U.S.C. 1955), reim-
17 burse the “General operating expenses” and “Information
18 technology systems” accounts for the cost of administra-
19 tion of the insurance programs financed through those ac-
20 counts: *Provided*, That reimbursement shall be made only
21 from the surplus earnings accumulated in such an insur-
22 ance program during fiscal year 2009 that are available
23 for dividends in that program after claims have been paid
24 and actuarially determined reserves have been set aside:
25 *Provided further*, That if the cost of administration of such
26 an insurance program exceeds the amount of surplus earn-

1 ings accumulated in that program, reimbursement shall be
 2 made only to the extent of such surplus earnings: *Provided*
 3 *further*, That the Secretary shall determine the cost of ad-
 4 ministration for fiscal year 2009 which is properly allo-
 5 cable to the provision of each such insurance program and
 6 to the provision of any total disability income insurance
 7 included in that insurance program.

8 SEC. 209. Amounts deducted from enhanced-use
 9 lease proceeds to reimburse an account for expenses in-
 10 curred by that account during a prior fiscal year for pro-
 11 viding enhanced-use lease services, may be obligated dur-
 12 ing the fiscal year in which the proceeds are received.

13 (INCLUDING TRANSFER OF FUNDS)

14 SEC. 210. Funds available in this title or funds for
 15 salaries and other administrative expenses shall also be
 16 available to reimburse the Office of Resolution Manage-
 17 ment of the Department of Veterans Affairs and the Of-
 18 fice of Employment Discrimination Complaint Adjudica-
 19 tion under section 319 of title 38, United States Code,
 20 for all services provided at rates which will recover actual
 21 costs but not exceed \$34,158,000 for the Office of Resolu-
 22 tion Management and \$3,278,000 for the Office of Em-
 23 ployment and Discrimination Complaint Adjudication:
 24 *Provided*, That payments may be made in advance for
 25 services to be furnished based on estimated costs: *Provided*
 26 *further*, That amounts received shall be credited to the

1 “General operating expenses” and “Information tech-
2 nology systems” accounts for use by the office that pro-
3 vided the service.

4 SEC. 211. No appropriations in this title shall be
5 available to enter into any new lease of real property if
6 the estimated annual rental is more than \$1,000,000 un-
7 less the Secretary submits a report which the Committees
8 on Appropriations of both Houses of Congress approve
9 within 30 days following the date on which the report is
10 received.

11 SEC. 212. No funds of the Department of Veterans
12 Affairs shall be available for hospital care, nursing home
13 care, or medical services provided to any person under
14 chapter 17 of title 38, United States Code, for a non-serv-
15 ice-connected disability described in section 1729(a)(2) of
16 such title, unless that person has disclosed to the Sec-
17 retary of Veterans Affairs, in such form as the Secretary
18 may require, current, accurate third-party reimbursement
19 information for purposes of section 1729 of such title: *Pro-*
20 *vided*, That the Secretary may recover, in the same man-
21 ner as any other debt due the United States, the reason-
22 able charges for such care or services from any person who
23 does not make such disclosure as required: *Provided fur-*
24 *ther*, That any amounts so recovered for care or services
25 provided in a prior fiscal year may be obligated by the

1 Secretary during the fiscal year in which amounts are re-
2 ceived.

3 (INCLUDING TRANSFER OF FUNDS)

4 SEC. 213. Notwithstanding any other provision of
5 law, proceeds or revenues derived from enhanced-use leas-
6 ing activities (including disposal) may be deposited into
7 the “Construction, major projects” and “Construction,
8 minor projects” accounts and be used for construction (in-
9 cluding site acquisition and disposition), alterations, and
10 improvements of any medical facility under the jurisdic-
11 tion or for the use of the Department of Veterans Affairs.
12 Such sums as realized are in addition to the amount pro-
13 vided for in “Construction, major projects” and “Con-
14 struction, minor projects”.

15 SEC. 214. Amounts made available under “Medical
16 services” are available—

17 (1) for furnishing recreational facilities, sup-
18 plies, and equipment; and

19 (2) for funeral expenses, burial expenses, and
20 other expenses incidental to funerals and burials for
21 beneficiaries receiving care in the Department.

22 (INCLUDING TRANSFER OF FUNDS)

23 SEC. 215. Such sums as may be deposited to the
24 Medical Care Collections Fund pursuant to section 1729A
25 of title 38, United States Code, may be transferred to

1 “Medical services”, to remain available until expended for
2 the purposes of that account.

3 SEC. 216. Notwithstanding any other provision of
4 law, the Secretary of Veterans Affairs shall allow veterans
5 who are eligible under existing Department of Veterans
6 Affairs medical care requirements and who reside in Alas-
7 ka to obtain medical care services from medical facilities
8 supported by the Indian Health Service or tribal organiza-
9 tions. The Secretary shall: (1) limit the application of this
10 provision to rural Alaskan veterans in areas where an ex-
11 isting Department of Veterans Affairs facility or Veterans
12 Affairs-contracted service is unavailable; (2) require par-
13 ticipating veterans and facilities to comply with all appro-
14 priate rules and regulations, as established by the Sec-
15 retary; (3) require this provision to be consistent with
16 Capital Asset Realignment for Enhanced Services activi-
17 ties; and (4) result in no additional cost to the Department
18 of Veterans Affairs or the Indian Health Service.

19 (INCLUDING TRANSFER OF FUNDS)

20 SEC. 217. Such sums as may be deposited to the De-
21 partment of Veterans Affairs Capital Asset Fund pursu-
22 ant to section 8118 of title 38, United States Code, may
23 be transferred to the “Construction, major projects” and
24 “Construction, minor projects” accounts, to remain avail-
25 able until expended for the purposes of these accounts.

1 SEC. 218. None of the funds available to the Depart-
2 ment of Veterans Affairs, in this Act, or any other Act,
3 may be used to replace the current system by which the
4 Veterans Integrated Services Networks select and contract
5 for diabetes monitoring supplies and equipment.

6 SEC. 219. None of the funds made available in this
7 title may be used to implement any policy prohibiting the
8 Directors of the Veterans Integrated Services Networks
9 from conducting outreach or marketing to enroll new vet-
10 erans within their respective Networks.

11 SEC. 220. The Secretary of Veterans Affairs shall
12 submit to the Committees on Appropriations of both
13 Houses of Congress a quarterly report on the financial
14 status of the Veterans Health Administration.

15 (INCLUDING TRANSFER OF FUNDS)

16 SEC. 221. Amounts made available under the “Med-
17 ical services”, “Medical facilities”, “General operating ex-
18 penses”, and “National Cemetery Administration” ac-
19 counts for fiscal year 2009, may be transferred to or from
20 the “Information technology systems” account: *Provided*,
21 That before a transfer may take place, the Secretary of
22 Veterans Affairs shall request from the Committees on
23 Appropriations of both Houses of Congress the authority
24 to make the transfer and an approval is issued.

25 SEC. 222. Amounts made available for the “Informa-
26 tion technology systems” account may be transferred be-

1 tween projects: *Provided*, That no project may be in-
2 creased or decreased by more than \$1,000,000 of cost
3 prior to submitting a request to the Committees on Appro-
4 priations of both Houses of Congress to make the transfer
5 and an approval is issued.

6 (INCLUDING TRANSFER OF FUNDS)

7 SEC. 223. Any balances in prior year accounts estab-
8 lished for the payment of benefits under the Reinstated
9 Entitlement Program for Survivors shall be transferred to
10 and merged with amounts available under the “Compensa-
11 tion and pensions” account, and receipts that would other-
12 wise be credited to the accounts established for the pay-
13 ment of benefits under the Reinstated Entitlement Pro-
14 gram for Survivors program shall be credited to amounts
15 available under the “Compensation and pensions” ac-
16 count.

17 SEC. 224. The Department shall continue research
18 into Gulf War illness at levels not less than those made
19 available in fiscal year 2008, within available funds con-
20 tained in this Act.

21 SEC. 225. (a) Upon a determination by the Secretary
22 of Veterans Affairs that such action is in the national in-
23 terest, and will have a direct benefit for veterans through
24 increased access to treatment, the Secretary of Veterans
25 Affairs may transfer not more than \$5,000,000 to the Sec-
26 retary of Health and Human Services for the Graduate

1 Psychology Education Program, which includes treatment
2 of veterans, to support increased training of psychologists
3 skilled in the treatment of post-traumatic stress disorder,
4 traumatic brain injury, and related disorders.

5 (b) The Secretary of Health and Human Services
6 may only use funds transferred under this section for the
7 purposes described in subsection (a).

8 (c) The Secretary of Veterans Affairs shall notify
9 Congress of any such transfer of funds under this section.

10 SEC. 226. None of the funds appropriated or other-
11 wise made available by this Act or any other Act for the
12 Department of Veterans Affairs may be used in a manner
13 that is inconsistent with—

14 (1) section 842 of the Transportation, Treas-
15 ury, Housing and Urban Development, the Judici-
16 ary, and Independent Agencies Appropriations Act,
17 2006 (Public Law 109–115; 119 Stat. 2506); or

18 (2) section 8110(a)(5) of title 38, United States
19 Code.

20 SEC. 227. The Secretary of Veterans Affairs may
21 carry out a major medical facility lease in fiscal year 2008
22 in an amount not to exceed \$12,000,000 to implement the
23 recommendations outlined in the August 2007 Study of
24 South Texas Veterans' Inpatient and Specialty Outpatient
25 Health Care Needs.

1 SEC. 228. Section 1710(f)(2)(B) of title 38, United
 2 States Code, is amended by striking “September 30,
 3 2008,” and inserting “September 30, 2009,”.

4 SEC. 229. Section 1729(a)(2)(E) of title 38, United
 5 States Code, is amended by striking “October 1, 2008,”
 6 and inserting “October 1, 2009,”.

7 SEC. 230. Of the amounts made available to the De-
 8 partment of Veterans Affairs for fiscal year 2009, in this
 9 Act or any other Act, under the “Medical Facilities” ac-
 10 count for non-recurring maintenance, not more than 20
 11 percent of the funds made available shall be obligated dur-
 12 ing the last 2 months of the fiscal year.

13 TITLE III

14 RELATED AGENCIES

15 AMERICAN BATTLE MONUMENTS COMMISSION

16 SALARIES AND EXPENSES

17 For necessary expenses, not otherwise provided for,
 18 of the American Battle Monuments Commission, including
 19 the acquisition of land or interest in land in foreign coun-
 20 tries; purchases and repair of uniforms for caretakers of
 21 national cemeteries and monuments outside of the United
 22 States and its territories and possessions; rent of office
 23 and garage space in foreign countries; purchase (one-for-
 24 one replacement basis only) and hire of passenger motor
 25 vehicles; not to exceed \$7,500 for official reception and

1 representation expenses; and insurance of official motor
 2 vehicles in foreign countries, when required by law of such
 3 countries, \$59,470,000, to remain available until ex-
 4 pended.

5 FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

6 For necessary expenses, not otherwise provided for,
 7 of the American Battle Monuments Commission, such
 8 sums as may be necessary, to remain available until ex-
 9 pended, for purposes authorized by section 2109 of title
 10 36, United States Code.

11 UNITED STATES COURT OF APPEALS FOR VETERANS

12 CLAIMS

13 SALARIES AND EXPENSES

14 For necessary expenses for the operation of the
 15 United States Court of Appeals for Veterans Claims as
 16 authorized by sections 7251 through 7298 of title 38,
 17 United States Code, \$23,975,000, of which \$1,700,000
 18 shall be available for the purpose of providing financial
 19 assistance as described, and in accordance with the proc-
 20 ess and reporting procedures set forth, under this heading
 21 in Public Law 102–229.

22 DEPARTMENT OF DEFENSE—CIVIL

23 CEMETERIAL EXPENSES, ARMY

24 SALARIES AND EXPENSES

25 For necessary expenses, as authorized by law, for
 26 maintenance, operation, and improvement of Arlington

1 National Cemetery and Soldiers' and Airmen's Home Na-
2 tional Cemetery, including the purchase of two passenger
3 motor vehicles for replacement only, and not to exceed
4 \$1,000 for official reception and representation expenses,
5 \$42,230,000, to remain available until expended. In addi-
6 tion, such sums as may be necessary for parking mainte-
7 nance, repairs and replacement, to be derived from the
8 Lease of Department of Defense Real Property for De-
9 fense Agencies account.

10 Funds appropriated under this Act may be provided
11 to Arlington County, Virginia, for the relocation of the
12 federally owned water main at Arlington National Ceme-
13 tery making additional land available for ground burials.

14 ARMED FORCES RETIREMENT HOME

15 TRUST FUND

16 For expenses necessary for the Armed Forces Retire-
17 ment Home to operate and maintain the Armed Forces
18 Retirement Home—Washington, District of Columbia,
19 and the Armed Forces Retirement Home—Gulfport, Mis-
20 sissippi, to be paid from funds available in the Armed
21 Forces Retirement Home Trust Fund, \$63,010,000, of
22 which \$8,025,000 shall remain available until expended
23 for construction and renovation of the physical plants at
24 the Armed Forces Retirement Home—Washington, Dis-

1 triet of Columbia and the Armed Forces Retirement
2 Home—Gulfport, Mississippi.

3 TITLE IV

4 GENERAL PROVISIONS

5 SEC. 401. No part of any appropriation contained in
6 this Act shall remain available for obligation beyond the
7 current fiscal year unless expressly so provided herein.

8 SEC. 402. Such sums as may be necessary for fiscal
9 year 2009 for pay raises for programs funded by this Act
10 shall be absorbed within the levels appropriated in this
11 Act.

12 SEC. 403. None of the funds made available in this
13 Act may be used for any program, project, or activity,
14 when it is made known to the Federal entity or official
15 to which the funds are made available that the program,
16 project, or activity is not in compliance with any Federal
17 law relating to risk assessment, the protection of private
18 property rights, or unfunded mandates.

19 SEC. 404. No part of any funds appropriated in this
20 Act shall be used by an agency of the executive branch,
21 other than for normal and recognized executive-legislative
22 relationships, for publicity or propaganda purposes, and
23 for the preparation, distribution, or use of any kit, pam-
24 phlet, booklet, publication, radio, television, or film presen-

1 tation designed to support or defeat legislation pending
2 before Congress, except in presentation to Congress itself.

3 SEC. 405. All departments and agencies funded under
4 this Act are encouraged, within the limits of the existing
5 statutory authorities and funding, to expand their use of
6 “E-Commerce” technologies and procedures in the con-
7 duct of their business practices and public service activi-
8 ties.

9 SEC. 406. None of the funds made available in this
10 Act may be transferred to any department, agency, or in-
11 strumentality of the United States Government except
12 pursuant to a transfer made by, or transfer authority pro-
13 vided in, this or any other appropriations Act.

14 SEC. 407. Unless stated otherwise, all reports and no-
15 tifications required by this Act shall be submitted to the
16 Subcommittee on Military Construction, Veterans Affairs,
17 and Related Agencies of the Committee on Appropriations
18 of the House of Representatives and the Subcommittee on
19 Military Construction, Veterans Affairs, and Related
20 Agencies of the Committee on Appropriations of the Sen-
21 ate.

22 This Act may be cited as the “Military Construction
23 and Veterans Affairs and Related Agencies Appropriations
24 Act, 2009”.

Calendar No. 892

110TH CONGRESS
2^D Session

S. 3301

[Report No. 110-428]

A BILL

Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2009, and for other purposes.

JULY 22, 2008

Read twice and placed on the calendar